

WCA Rule Advisory Committee - 6/26/08 Meeting

Draft Mining and Calcareous Fens Sections

8420.0300 MINING. Wetlands may not be drained, excavated, or filled as part of a project for which a permit to mine is required by Minnesota Statutes, section [93.481](#), except as approved by the commissioner. Draining, excavating, or filling of wetlands created by pits, stockpiles, or tailing basins by actions whose purpose was not to create the wetland are exempt under part [8420.0122](#).

A. For new mining operations that are permitted and initiated after July 1, 1993:

- (1) mining shall not be conducted without first receiving a permit to mine issued under chapter 6130 for iron ore and taconite or chapter 6132 for nonferrous metallic minerals; and
- (2) the mining and reclamation operating plans or annual reports submitted by the applicant as required in the permit to mine shall include an approved wetland replacement plan that meets the same principles and standards for replacing wetlands under parts [8420.0500](#) to [8420.0630](#).

B. For mining operations in existence before July 1, 1993, and operated on or after that date under a permit to mine issued under chapter 6130 for iron ore and taconite or chapter 6132 for nonferrous metallic minerals:

- (1) no draining, excavating, or filling activities shall be conducted within wetlands for which these activities were approved but not initiated before July 1, 1993, until the operating plan or annual report as required in the permit to mine includes an approved wetland replacement plan for the undisturbed wetlands. The wetland replacement plan shall meet the same principles and standards for replacing wetlands under parts [8420.0500](#) to [8420.0630](#);
- (2) for filling activities that were approved and initiated before July 1, 1993, the placement of fill atop a stockpile, roadway, or other mining-related facility that occupies a wetland filled before July 1, 1993, shall be allowed to continue within the areal extent, as it existed on July 1, 1993, of the stockpile, roadway, or other mining-related facility without the requirement of a replacement plan or amendment of the permit to mine. An expansion of the areal extent of the fill in the wetland requires an approved replacement plan in the operating plan or annual report as required in the permit to mine, according to subitem (1);
- (3) for draining activities that were approved and initiated before July 1, 1993, the draining of a wetland to facilitate mining, using ditches and other drainage facilities that existed on July 1, 1993, shall be allowed to continue without the requirement of a replacement plan or amendment of the permit to mine. Maintenance of the ditches and structures shall be allowed without the requirement of a replacement plan or amendment of the permit to mine, provided that as a result of the maintenance, wetlands are not drained beyond the extent that existed as of July 1, 1993. Otherwise, the permit to mine must be amended to provide for replacement according to subitem (1).

C. Replacement wetlands approved under this part may only be used for mining-related impacts covered under a permit to mine unless the credits are approved and deposited in the state wetland banking system according to parts 8420.0700 to 8420.0760.

CD. Applicable procedures are those required for permits to mine.

DE. This part shall not apply to peat mining as defined under Minnesota Statutes, section [93.461](#), that is subject to the mine permit and reclamation requirements under Minnesota Statutes, sections [93.44](#) to [93.51](#), and the rules of the commissioner adopted under those sections.

STANDARDS AND CRITERIA FOR IDENTIFICATION, PROTECTION, AND MANAGEMENT OF CALCAREOUS FENS

8420.1010 PURPOSE. The purpose of parts [8420.1010](#) to [8420.1070](#) is to provide minimum standards and criteria for the identification, protection, and management of calcareous fens as authorized by Minnesota Statutes, section [103G.223](#). Calcareous fens may not be drained or filled or otherwise altered or degraded except as provided for in a management plan approved by the commissioner. Part [8420.0122](#) does not apply to calcareous fens.

8420.1020 IDENTIFYING CALCAREOUS FENS. A calcareous fen is a peat-accumulating wetland dominated by distinct groundwater inflows having specific chemical characteristics. The water is characterized as circumneutral to alkaline, with high concentrations of calcium and low dissolved oxygen content. The chemistry provides an environment for specific and often rare hydrophytic plants.

8420.1030 PROCEDURES TO LIST CALCAREOUS FENS.

- A. The commissioner shall investigate wetlands to determine if the wetland is properly identified as a calcareous fen.
- B. The commissioner shall maintain a current list of known calcareous fens in the state and their location.
- C. The commissioner shall provide an updated list of calcareous fens to the board for further distribution.

8420.1040 MANAGEMENT PLANS. Calcareous fens may not be drained or filled or otherwise altered or degraded except as provided for in a management plan approved by the commissioner. The commissioner will provide technical assistance to landowners or project sponsors in the development of management plans.

8420.1050 RESTORATION. The commissioner may approve management plans to restore or upgrade a previously damaged calcareous fen.

8420.1060 APPEALS.

- A. A landowner or project proposer may challenge the commissioner's determination that a wetland is a calcareous fen or the commissioner's calcareous fen management plan by demanding a hearing. The hearing will be carried out in the same manner as water permit hearings under Minnesota Statutes, chapter 103G.
- B. The hearing must be demanded within 30 days after mailed notice of the commissioner's decision to the project proposer, otherwise the decision becomes final and may not be challenged by the project proposer.
- C. Appeal of the commissioner's decision after the hearing must be done in the manner provided for appeals from contested case decisions in Minnesota Statutes, chapter 14.

8420.1070 ENFORCEMENT PROCEDURES. Enforcement procedures for calcareous fens shall be conducted consistent with Minnesota Statutes, sections [103G.141](#) and [103G.2372](#), except that necessary restoration or replacement activities, if required, will be determined by the commissioner, in consultation with the local soil and water conservation district.